**THE HON'BLE SRI JUTICE ELIPE DHARMA RAO**

**W.P.No.16248 of 2005**

**Dated 26th day of July, 2005**

Between:

Mir Asghar Ali, s/o. late Mir Momin Ali,

Aged about 65 years, Occ: Business,

R/o.22-3-370, Mir Alam Mandi, Hyderabad.

… **Petitioner**

And

1. The Joint Collector, R.R. District,

At Lakidikapool, Hyderabad.

And 9 others .. **Respondents**

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**ORDER**:

The writ petition is filed seeking a Certiorari to call for the records pertaining to the orders in I.A.No.F2/710/2005, dated 12-07-2005 issued by the first respondent-Joint

Collector-II, Ranga Reddy District and to quash the same as illegal and arbitrary.

The case of the petitioner is that the land admeasuring Ac.31.22 guntas covered by the Survey Nos.154, 155, 156, 157 and 158, situated at Kapra village, Keesara Mandal, Ranga Reddy District, is the subject matter of this writ petition and he is the pattadar of the land and the land is held by the protected tenants. The second respondent-M/s.Bhavan Rishi Co-operative House Building Society Limited is claiming to have purchased the schedule land from the G.P.As. of the family of the applicant and protected tenants. The Mandal Revenue Officer issued proceedings dated 29-06-2002 granting succession in favour of the lineal descendants of brothers of Donkena Ramaswamy, who was the original protected tenant. Subsequently, on an application made by the said lineal descendants i.e., respondents 3 to 10, the succession under Section 40 of the Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act, 1951
(for short 'the Tenancy Act') was granted in their favour by order dated 30-06-2003. However, the second respondent-society preferred an appeal against the order of M.R.O. dated
30-06-2003. In the said appeal the petitioner was arrayed as respondent No.10.

It is his further case that when the matter was reserved for orders, he filed an application to reopen the case and permitted to file written arguments. When the same was not being entertained, he filed W.P.No.22032 of 2004. This Court dismissed the said writ petition giving liberty to file written arguments and if the authority had not passed final order in the appeal, it should consider the written arguments that might be filed by the petitioner. In spite of specific direction given, the first respondent did not receive the written arguments and allowed the appeal filed by the second respondent under Section 90 of the Tenancy Act. Aggrieved by the same, the petitioner and second set of tenants have filed revision petitions before this Court. That revisions were allowed by this Court by a common order dated 11-03-2005 setting aside the order of first respondent dated 21-12-2004 and directed him to decide the appeals particularly keeping in view the effect of notification under the A.P. Urban Areas (Development) Act, 1975.

It is his further case that in the appeal, he filed an application for injunction against the second respondent seeking to restrain him from alienating or altering the nature of identity of the land. When the said application was not being taken up, he filed W.P.No.8119 of 2005 before this Court. The said writ petition was disposed of

directing the first respondent to dispose of the application, to be filed by the petitioner within two weeks from the date of receipt of application. Accordingly, the petitioner filed I.A.No.F2/710/2005 in File No.F2/6150/2003 on 20-04-2005, seeking stay of all further proceedings including development, sale or construction over land in question.

The first respondent after hearing the arguments of both parties rejected the said I.A. through order dated 12-07-2005 observing that it was not within the competence of the authority exercising powers under Tenancy Act to grant a relief in the nature of an injunction. Aggrieved by the same, the petitioner filed this writ petition.

Heard the learned counsel for the petitioner as well as the learned Government Pleader for Revenue on behalf of the first respondent.

Earlier, W.P.No.8119 of 2005 was filed by the petitioner aggrieved by the alleged inaction on the part of the respondents 1 & 3 to 7 in considering the application dated 30-03-2005 made by the petitioner and taking appropriate action to preserve the rights of the petitioner in respect of the land in question. After considering the facts and circumstances of the case, the learned Judge without expressing any opinion on merits, and without passing any order of *status quo*, disposed of the said writ petition granting liberty to the petitioner to seek such relief before the second respondent by filing an appropriate application within a period of one week and on such application being made, the first respondent was also directed to entertain and dispose of the same after hearing all the parties, within a period of two weeks from the date of filing of such application.

In pursuance of the direction of this Court in W.P.No.8119 of 2005, dated 13-04-2005, I.A. No.F2/710/2005 was filed by the petitioner in appeal File No.F2/6150/2003 before the first respondent seeking stay of all further proceedings in respect of the land in question. Later, the first respondent after hearing the arguments of both the parties and after perusal of the material available on record rejected the said I.A. on the ground that it was not within the competence of the authority exercising powers under Tenancy Act to grant a relief in the nature of an injunction. But, the first respondent has failed to comply with the orders of this Court i.e., passing of the orders on merits of the case and on the other hand, he rejected the said I.A. on the above said ground, which is contrary to the orders passed earlier by the learned Judge of this Court in W.P.No.8119 of 2005 as stated supra. More

over, this view is supported by the decision of a Division Bench of this Court in ***P. Anil Kumar & Others v. The Joint Collector, Ranga Reddy & others*** wherein it is held that the power to grant an interim injunction in favour of the tenant is within the power of the Tahsildar. The injunctive relief is comprehended within the larger relief of restoration of lost possession to tenant. Restoration is expressly spoken by sub-section (1) of Section 32 of the Tenancy Act. If no injunction can be granted against the landlord from disturbing the possession of the tenant, the landlord would be free under Section 32 (2) of the Tenancy Act to obtain possession of any land held by a tenant otherwise than under the order of the Tahsildar. Therefore, this decision is squarely applicable to the case of the petitioner.

It is the contention of the learned counsel for the petitioner that this is a second round of litigation before this Court and in this regard, the learned Judge of this Court had already passed an order directing the petitioner to file an application before the first respondent for interim injunction and on such application being made, the first respondent was directed to consider and dispose of the said application, but the first respondent refused to grant any interim order and therefore, prayed to grant the order of *status quo*.

Considering the plea of the petitioner and having regard to the facts and circumstances of the case, I deem it appropriate to dispose of the writ petition directing both the parties to maintain *status quo* and further the first respondent is also directed to dispose of the appeal pending before him, in accordance with law, after affording an opportunity to both the parties, within a period of eight weeks from the date of receipt of a copy of this Order.

With the above directions, the writ petition is disposed of at the stage of admission. No order as to costs.

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**ELIPE DHARMA RAO, J**

Date: 26th July, 2005

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